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7/6/01
MA

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DERRICK COOMBS,

Plaintiff

v.

ROBERT MYERS, ET AL.,

Defendants

: CIVIL ACTION NO. 1:CV-01-0247

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FILED
HARRISBURG, PA

(Judge Rambo) JUL 06 2001

MARY E. D'ANDREA, CLERK
Per MA
Deputy Clerk

ORDER


Before the court is a pro se civil rights action filed on February 7, 2001 under 42 U.S.C. § 1983. In addition to the complaint, plaintiff filed a motion for recusal. For the following reason, the motion will be denied.

Under 28 U.S.C. § 455(a), a judge should recuse himself "in any proceeding in which his impartiality might reasonably be questioned." Further § 455(b) provides examples of specific circumstances under which disqualification is necessary. Plaintiff states that because he previously named this court as a defendant in a civil action in 1995 or 1996, there is "serious question" as to the court's impartiality regarding the pending complaint. Therefore, Coombs is clearly relying upon 28 U.S.C. § 455(b)(1) which states a judge shall disqualify himself "where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding."

It is well-settled that recusal is only appropriate when it appears a judge has "bias generated from a source outside the context of the judicial proceeding." United States v. Veteto, 701 F.2d 136,

140 (11th Cir.), cert. denied, 464 U.S. 839 (1983). In deciding a motion for recusal, the court must apply an objective standard. Edelstein v. Wilentz, 812 F.2d 128, 131 (3d Cir. 1987). The proper inquiry is not whether the moving party subjectively believes the judge has some preconceived bias or prejudice, but rather whether a reasonable person, knowing all of the facts and circumstances ". . . would harbor doubts concerning the judge's impartiality." Blanche Rd. Corp. v. Bensalem Township, 57 F.3d 253, 266 (3d Cir. 1995) (citing U.S. v. Dalfonso, 707 F.2d 757, 760 (3d Cir. 1983)); see also In re Antar, 71 F.3d 97, 101 (3d Cir. 1995).

In determining whether an appearance of impropriety arises from the court's involvement in the case, the proper inquiry is "whether a reasonable person, knowing all the acknowledged circumstances, might question [the court's] continued impartiality." Alexander v. Primerica Holdings, Inc., 10 F.3d 155, 164 (3d Cir. 1993) (citation omitted). Based on the facts set forth above, no reasonable person, with knowledge of all the circumstances would have cause to question the court's impartiality. Accordingly, the plaintiff's motion for recusal (Doc. 7) is denied as it is devoid of merit.


 SYLVIA H. RAMBO
 United States District Judge

Dated: July 6, 2001

UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

* * MAILING CERTIFICATE OF CLERK * *

July 6, 2001

Re: 1:01-cv-00247 Coombs v. Myers

True and correct copies of the attached were mailed by the clerk
to the following:

Derrick R. Coombs
SCI-CH
CT-1800
P.O. Box 200
Camp Hill, PA 17001

Patrick S. Cawley, Esq.
Office of Attorney General
15th Floor, Strawberry Square
Harrisburg, PA 17120

cc:

Judge	(X)	(X) Pro Se Law Clerk
Magistrate Judge	()	() INS
U.S. Marshal	()	() Jury Clerk
Probation	()	
U.S. Attorney	()	
Atty. for Deft.	()	
Defendant	()	
Warden	()	
Bureau of Prisons	()	
Ct Reporter	()	
Ctroom Deputy	()	
Orig-Security	()	
Federal Public Defender	()	
Summons Issued	()	with N/C attached to complt. and served by: U.S. Marshal () Pltf's Attorney ()
Standard Order 93-5	()	
Order to Show Cause	()	with Petition attached & mailed certified mail to: US Atty Gen () PA Atty Gen () DA of County () Respondents ()
Bankruptcy Court	()	
Other _____	()	

MARY E. D'ANDREA, Clerk

DATE: July 6th, 2001

BY:


Deputy Clerk